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August 25, 2017

VIA ECF AND FAX: (212) 805-0426

Honorable Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 17C
New York, New York 10007

Re: Louis Tafuto v. Donald J. Trump for President Inc., et al.
Case No.: 16-cv-08648 (LTS)

Dear Judge Swain:

We represent the defendants and are writing in response to plaintiff's correspondence—which is dated August 18, 2017, but was just emailed to our firm yesterday, August 24th—stating that plaintiff intends to amend his already Amended Complaint in response to defendants' motion to dismiss.¹ *A copy of plaintiff's correspondence is enclosed.*


From the context of his letter, it appears that plaintiff has mistakenly assumed that he can amend his complaint for a ***second*** time as of right. This does not comport with our reading of Section 2(b)(iii) of Your Honor's Individual Rules (which indicates that a party who has already amended as of right may only make a "request for leave to amend") or Rule 15(a)(1) of the Federal Rules of Civil Procedure ("[a] party may amend its pleading once as a matter of course"). Here, plaintiff already amended his complaint in response to this Court's Orders dated November 18, 2016 and January 13, 2017. *See ECF Documents 6, 9, 11, and 14.* As such, plaintiff should not be allowed to amend a second time as of right.²

¹ Plaintiff's statement of his intention to amend appears untimely under Section 2(b)(iii) of Your Honor's Individual Rules as it was served on our firm more than 7 days after the August 15, 2017 filing of defendants' motion to dismiss.

² On this point, we note that the only amendment plaintiff vaguely suggested during our pre-motion communications was to add claims arising under criminal statutes in Wisconsin, Michigan and Pennsylvania, which do not even appear to provide civil causes of action.

Accordingly, to the extent that plaintiff's statement is found to be timely, it is respectfully requested that plaintiff be required to seek leave to amend his Amended Complaint and, in doing so, identify the legal basis for each proposed amendment.

Respectfully submitted,

Lawrence S. Rosen
Lawrence S. Rosen 

cc: Mr. Louis Tafuto
(via email: tafuto845@gmail.com)

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August 18, 2017

Lawrence Rosen, Esq.
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Re: Louis Tafuto v. Donald J. Trump for President, Inc. Et. Al.
U.S. District Court, Southern District of New York
Civil Action No. 16-cv-08648 (LTS)
Statement by non-moving party

Dear Mr. McPartland,

I am the Plaintiff in the above entitled matter. This letter is pursuant to the Individual Practices of Judge Laura Taylor Swain Rule A.2.b.iii **Statement by non-moving party**.

Please be advised that I am invoking my right to Amend the Complaint based on FCRP Rule 15 (a) (1) (B) in response to your Rule 12(b) Motion to Dismiss dated 8/ 15/2017

Sincerely,

Louis Tafuto

Cc: Laura T Swain, JSC SDNY

Tafuto v Trump
LTS Rule: Section 2(b)(iii) **Statement by non-moving party**
Case # 16 cv 8648 (LTS)